

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-222 (JJF)
)	
IMPAX LABORATORIES, INC.,)	PUBLIC VERSION
)	Original Filing Date: July 14, 2008
Defendant.)	Redacted Filing Date: July 17, 2008
)	

**JOINT MOTION TO ENTER CONSENT
JUDGMENT AND TO ENTER STIPULATED ORDER**

The parties in the above-captioned action have executed a Settlement and Release Agreement on June 9, 2008 (hereinafter referred to as the "Agreement").

Under Paragraph 2(D) of the Agreement, the entire Agreement does not become effective and binding upon the parties until certain conditions ("Settlement Conditions") have been satisfied. Pursuant to those Settlement Conditions, the parties submit herewith a Consent Judgment (Exhibit A) and a Stipulated Order (Exhibit B). The Agreement is attached as Exhibit 1 to the Stipulated Order.

Consistent with Paragraph 2(D)((i) and (iii)) of the Agreement, the parties respectfully request that the Court enter both the attached Consent Judgment and Stipulated Order.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP MORRIS JAMES LLP

/s/ Karen Jacobs Loudon

/s/ Mary B. Matterer

Jack B. Blumenfeld (#1014)
Karen Jacobs Loudon (#2881)
klouden@mnat.com
1201 N. Market Street
Wilmington, DE 19899-1347
(302) 658-9200
Attorneys for Plaintiff

Mary B. Matterer (#2696)
mmatterer@morrisjames.com
222 Delaware Avenue
P.O. Box 2306
Wilmington, DE 19899
(302) 888-6800
Attorneys for Defendant

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-222 (JJF)
)	
IMPAX LABORATORIES, INC.,)	
)	
Defendant.)	
)	

CONSENT JUDGMENT

As a result of the parties having executed the Settlement and Release Agreement dated June 9, 2008 and the License Agreement (as defined in the Settlement and Release Agreement), the Court hereby Orders:

- 1) Until the expiration of U.S. Patent Nos. 6,274,171 B1, 6,403,120 B1 and 6,419,958 B2, Defendant shall not, and shall cause its affiliates to not, make, use, sell, offer for sale, or import the extended-release venlafaxine hydrochloride capsules that are the subject of ANDA 78-057, except as and to the extent permitted under the License Agreement.
- 2) Defendant, on behalf of itself and its affiliates, stipulates to the validity of claims 20-25 of U.S. Patent No. 6,274,171 B1, claims 1, 2, 13 and 14 of U.S. Patent No. 6,403,120 B1 and claims 1-6 of U.S. Patent No. 6,419,958 B2.
- 3) Defendant, on behalf of itself and its affiliates, stipulates to the infringement of claims 20-25 of U.S. Patent No. 6,274,171 B1, claims 1, 2, 13 and 14 of U.S. Patent No. 6,403,120 B1 and claims 1-6 of U.S. Patent No. 6,419,958 B2, to the extent, and only to the extent, such infringement relates to the making, using, selling, offering for sale and/or importing of the extended-release venlafaxine hydrochloride capsules that are the subject of ANDA 78-057 and only to the extent such activities are not being conducted as permitted under the License Agreement.
- 4) Defendant, on behalf of itself and its affiliates, stipulates to the enforceability of U.S. Patent Nos. 6,274,171 B1, 6,403,120 B1 and 6,419,958 B2.
- 5) Defendant's Counterclaims of patent invalidity, unenforceability, and non-infringement are dismissed with prejudice.

6) The Settlement and Release Agreement and the License Agreement entered into between the parties, which have been filed with this Court under seal, are adopted by the Court as part of this Consent Judgment.

7) Each party shall bear its own costs.

8) This Court retains jurisdiction to enforce this Consent Judgment, the parties' Settlement and Release Agreement and the Definitive Agreements (as defined in the Settlement and Release Agreement).

SO ORDERED.

Joseph J. Farnan, Jr., U.S.D.J.

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____ WYETH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-222 (JJF)
)	
IMPAX LABORATORIES, INC.,)	PUBLIC VERSION
)	Original Filing Date: July 14, 2008
Defendant.)	Redacted Filing Date: July 17, 2008
_____)	

STIPULATED ORDER

The parties hereby stipulate and agree that the Court may enter a permanent injunction in the following form:

- 1) The Court finds that Wyeth has complied with the terms of the Decision and Order of the Federal Trade Commission, Docket No. 9297 (issued April 2, 2002).
- 2) It is hereby Ordered that Wyeth and Impax Laboratories, Inc. shall abide by the terms of the Settlement and Release Agreement, dated June 9, 2008, attached hereto as Exhibit 1, and the other Definitive Agreements (as defined therein).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP MORRIS JAMES LLP

/s/ Karen Jacobs Louden

/s/ Mary B. Matterer

Jack B. Blumenfeld (#1014)
Karen Jacobs Louden (#2881)
klouden@mnat.com
1201 N. Market Street
Wilmington, DE 19899-1347
(302) 658-9200
Attorneys for Plaintiff

Mary B. Matterer (#2696)
mmatterer@morrisjames.com
222 Delaware Avenue
P.O. Box 2306
Wilmington, DE 19899
(302) 888-6800
Attorneys for Defendant

SO ORDERED this _____ day of _____, 2008.

Joseph J. Farnan, Jr., U.S.D.J.

EXHIBIT 1

REDACTED

EXHIBIT A

REDACTED

EXHIBIT B

REDACTED

EXHIBIT C

REDACTED